

REMARKS

As clearly set forth in the specification and reemphasized in the remarks in response to the previous office action, applicant's novel invention reduces the risk of contracting RSI by warning the user that the limb in question has been maintained in a cramped potentially damaging posture for a pre-determined period of time of non-use. The aim of the user alarm or user feedback signal of applicant's device is to provide information to and/or evoke a response from the said human user. For this, the signal must be consciously or subconsciously noted by the human user.

The Examiner recognized the inapplicability of the Kehlstadt patent to a majority of the claims by withdrawing the rejection thereover except for three (3) claims which will be discussed hereinafter.

In its place he has principally relied on the newly cited patent to Lignoul taken alone (Claims 16, 17, 18, 22, 23, 28, 30 and 31) or in combination with Serpa (Claims 19, 20 and 29) or Gould (Claims 21, 24 and 25). Claims 26, 27 and 32 which were again rejected as being anticipated by Kehlstadt will be taken up later.

In Kehlstadt as well as Lignoul, it is the express goal not to disturb, inform, notify the human user, nor to evoke any response from him. In fact, in Lignoul the whole point is to avoid the user being made aware of any changes in the system (screen saver). In Kehlstadt, entering into and waking up from the sleep mode is not noticeable by the user and should not be noted at all.

Referring now to Lignoul it is respectfully suggested that this reference cannot be considered as meeting the claims to which it has been applied since it clearly is not directed to

applicant's invention as stated above and the finding of isolated teachings in Lignoul that has been applied to read an applicant's device is a misapplication of Lignoul.

Lignoul basically teaches a system where the screen saver mode of a computer is not activated as long as the person using the computer remains in the vicinity of the computer.

It is important to note that Lignoul is not interested in the position of the user, just his presence. There is no referral to RSI, cramped motionless positions, health problems whatsoever. Kehlstadt is similarly deficient.

To analogize the Lignoul disclosure to a system that warns a user to move an arm or the like to prevent a repetitive stress injury is not understood. As will be spelled out below the Examiner has parsed the claims in question and combined them in a manner to find anticipation which finds no basis in the patent itself. Nowhere does Lignoul refer to let alone discuss that his device in any way accomplishes applicant's result.

Such piecemeal teachings to reconstruct Lignoul into applicant's invention is clearly without merit. It is absolutely essential that the primary reference be directed to the same or similar result to support its being used to reject the claims in the manner done by the Examiner.

Starting with Claim 16, which was rejected under 102e, where does Lignoul teach a system for preventing the maintaining of a sustained cramped motionless position of a limb.

To meet this limitation the Examiner refers to an element 182. If one goes to the specification, it can be seen that element 182 is a mouse (or any part of a user's body) which signals to the computer program that activates or deactivates the screen saver that the screen saver should not be activated. Actually, there is no movement of the mouse itself. It is the simulation of the mouse movement. Put another way, the presence of a limb on or over a mouse is not relevant to Lignoul's system only the presence of the user in the vicinity of the computer is

of interest and identifying him as an authorized user, so the screen saver mode can be avoided. Also while there is a timer disclosed it is used for merely setting the timer for activating the screen saver and not for determining when a limb is present and inactive. Furthermore, there is no alarm signal for warning when the limb is inactive for a period of time to call for action to help prevent a repetitive stress injury. The signal of Lignoul is not an alarm signal but a trigger signal to the computer program that activates and deactivates the screen saver.

It is not seen how Lignoul can be considered anticipatory of Claim 16.

Claim 28 is clearly patentable over Lignoul for the same reasons as set forth with respect to Claim 16.

As to Claim 17, the proximity sensor is to detect the presence of a person in the vicinity of the computer and can be anywhere on the body or any thing it touches and a mouse is a mere example of where the sensor element is located and not of particular interest or importance. The actual body position of the person is not important in that he might be sitting with his back to the screen or under the table.

As to Claim 18 which calls for an alarm signal the Examiner's reference is to a simulation of a mouse movement which mouse does not move at all. Mouse movement in this section means "screen cursor movement" of one or more pixels. It further states the system is fooled to believe the mouse had been moved by the user, "but no mouse movement had been actually made". This cannot be construed as a tactile signal of any kind.

As to Claims 23 and 30, these claims are not unpatentable over Lignoul for the reasons set forth with respect to Claims 16 or 17 and 28 plus the following:

The activation of the screen saver (from a background to a foreground state) is not a visual signal to anyone of any kind and certainly not a signal to the human user. It is also not

intended to be such a signal. The user is not meant to take notice of the signal at all and no action from the user of any kind is evoked. In fact, the screen saver will (usually) only come to the foreground when the user is not watching the screen at all or is not even present at the computer workplace.

Turning now to the rejection of Claims 26, 27 and 32 under 102(e) as being anticipated by Kehlstadt the Examiner is again directed to the arguments presented in the previous amendment filed in this application. First, considering Claim 26 and 31 as stated above it is the express goal of Kehlstadt not to evoke any response by the user. Awakening from a sleep mode cannot be construed as an alarm signal since it is not perceivable by the user nor is it intended to alert the user. User activity calls for actual activity from the mouse to a computer and mere presence of the hand is not enough.

Claim 27 which is dependent on Claim 26 distinguishes from Kehlstadt for the reasons set forth with respect to Claim 26 and in addition calls for the limb to be placed on or over at least a part of the element controllable by the user.

The position taken by the Examiner with respect to Claims 26, 27 and 32 have been carefully considered, but it is respectfully submitted that the signal referred to in Kehlstadt is clearly not an alarm signal for detecting lack of human activity for a period of time. Such interpretation of Kehlstadt appear to be one not supported by the Kehlstadt disclosure and was found to be an anticipation by modifying it only after being confronted with applicant's invention.

The Examiner's response to applicant's arguments with respect to Claims 26, 27 and 32 has been studied and the clarification regarding his construction of sleep mode does not render the Kehlstadt the equivalent of applicant's invention.

As to Claims 19, 20 and 29 these claims depend from either Claim 16 or 28 and thus are clearly not anticipated by Lignoul as discussed with respect to these claims. The Examiner is referred to the inapplicability of Lignoul discussed in detail above. Furthermore, it is respectfully suggested that there is no basis for combining Serpa with Lignoul, nor is it even considered to be possible to combine them. Serpa clearly does not disclose anything resembling applicant's invention. As previously stated, Serpa does not use a motor-operated eccentric mass.

Serpa uses a "stabilized" or specifically non-eccentric balanced mass to prevent the whole mouse from vibrating. Moreover as to further evidence of Serpa's inapplicability, the user must keep on holding the mouse when it receives a tactile signal which is the antithesis of applicant's invention. (see earlier amendment for further distinguishing characteristics of Serpa.)

Claim 22 and 31 are claims depending from Claims 16-17 and 28 respectively and are patentable for the reasons set forth with respect to such claims and further include an alarm signal that includes means for generating an audible alarm and while it is recognized that the provision of a audible alarm is not per se new, it presents an additional new combination when combined with the features of the novel invention from which they depend.

Claim 21, 24 and 25 are all dependent on Claims 16 or 17 and as presented earlier Claim 16 or 17 are not met by Lignoul for the various reasons set forth above and it would be repetitious to be restated here. Gould does not supply the deficiencies noted with respect to Lignoul. As to Gould the system disclosed therein monitors activity and warns the user to take a rest when warranted to reduce RSI. The activity rate does not constitute a risk profile, but merely warns the user when a certain level of activity is exceeded at that very same moment. Moreover, Gould does not store any data on the presence of a hand on the mouse.

The risk profile in applicant's invention consists of a database of past and current mouse use data from many users.

It is respectfully suggested that it would not be possible, let alone obvious, to combine the teachings of Lignoul and Gould even after being confronted with applicant's invention.

Claim 24 which calls for a risk profile being included and generating an alarm signal if the nature of the interaction conforms to the risk profile is not present in Gould.

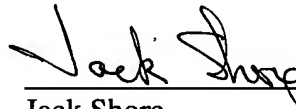
Claim 25 is subject to the same arguments applicable to Claim 24.

Arguments have been presented with respect to Claims 16-32 and it is respectfully submitted that such claims are allowable and that the application is in condition for allowance and such action is solicited.

If the prosecution of this application can be expedited by a telephone discussion, please feel free to call Jack Shore at (312) 521-2778.

Date: Dec. 21, 2006

Respectfully submitted,

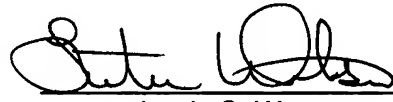


Jack Shore
Registration No. 17,551



CERTIFICATE OF MAILING

I hereby certify that the enclosed Response for Patent Application No. 10/507,509 is being deposited with the United States Postal Service with sufficient postage addressed to, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 21, 2006.



Letric S. Watson

Jack Shore, Esq.
Much, Shelist, Freed, Denenberg,
Ament and Rubenstein
191 N. Wacker Drive, Suite 1800
Chicago, IL 60606
Registration No. 17,551
Telephone: 312.521.2000